

**UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

OFFICE OF FEDERAL CONTRACT  
COMPLIANCE PROGRAMS, UNITED  
STATES DEPARTMENT OF LABOR,

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**DEFENDANT ORACLE  
AMERICA, INC.'S RESPONSES  
AND OBJECTIONS TO SECOND  
SET OF REQUESTS FOR THE  
PRODUCTION OF DOCUMENTS**

PROPOUNDING PARTY: Plaintiff OFFICE OF FEDERAL CONTRACT  
COMPLIANCE PROGRAMS, UNITED STATES  
DEPARTMENT OF LABOR

RESPONDING PARTY: Defendant ORACLE AMERICA, INC.

SET NO.: Two

Pursuant to 41 C.F.R. § 60-30.10 and, as applicable, Federal Civil Procedure Rule 34, Defendant Oracle America, Inc. ("Oracle") responds to Plaintiff Office of Federal Contract Compliance Programs, United States Department of Labor's ("OFCCP") Second Set of Requests for Production of Documents ("Requests") as follows:

**PRELIMINARY STATEMENT**

Oracle has not completed its investigation of the facts related to this case and therefore its responses are of a preliminary nature. Further discovery, investigation, and research may bring to light additional relevant facts that may lead to changes in the responses set forth below. Although these responses are complete to the best of Oracle's knowledge at this time, these responses are given without prejudice to Oracle's right to amend its objections and responses or to produce additional relevant evidence that may come to light regarding the issues raised in this lawsuit. Nothing contained in these responses shall in any way limit Oracle's ability to make all uses at trial or otherwise of the information or documents referenced herein or of any

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subsequently discovered information or documents or of information or documents omitted from these responses as a result of good faith oversight, error, or mistake.

Additionally, Oracle objects to each and every request that purports to request the production of emails, to the extent such requests impose the undue burden of collecting and reviewing emails of hundreds, if not thousands, of employees. Any agreement to engage in a reasonably diligent search utilizing reasonable search parameters, and to produce responsive, nonprivileged documents, should not be construed as an agreement or obligation to harvest and review emails that would impose such an undue burden.

For the reasons set forth in Oracle's Answer, Oracle's responses and productions responsive to the document requests related to OFCCP's recruiting and hiring claims are limited to the period January 1, 2013 through June 30, 2014 and to positions in the Professional Technical 1, Individual Contributor ("PT1") job group at Oracle's Redwood Shores, CA, location, and responses and productions responsive to the document requests related to OFCCP's compensation claims are limited to the period January 1, 2014 through December 31, 2014 and to positions in the Product Development, Support, and Information Technology job functions at Oracle's Redwood Shores, CA, location.

Oracle's production of documents is contingent upon and subject to the entry of a protective order. Oracle will provide OFCCP a proposed protective order.

These responses are made solely for purposes of this action, and are subject to all objections as to competence, authenticity, relevance, materiality, propriety, admissibility, and any and all other objections and grounds that would or could require or permit the exclusion of any document or statement therein from evidence, all of which objections and grounds are reserved and may be interposed at the time of trial.

No incidental or implied admissions are intended by these responses. The fact that Oracle has responded or objected to any request or part thereof shall not be deemed an admission that Oracle accepts or admits the existence of any facts set forth or assumed by such request. Nor shall Oracle's responses or objections be deemed an admission that any statement or

characterization in any request is accurate or complete, or that any particular document exists, is relevant, or is admissible in evidence.

### **OBJECTIONS TO SPECIFIC DEFINITIONS**

**DEFINITION NO. 1.** “YOU” and “YOUR” mean Oracle America, Inc. and all of its agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions.

#### **OBJECTION TO DEFINITION NO. 1:**

Oracle objects to the OFCCP’s definitions of “YOU” and “YOUR” as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case, to the extent that these terms include Oracle’s agents, representatives, attorneys, consultants, successors, subsidiaries, or divisions. Oracle further objects to this definition to the extent it includes information protected by attorney-client privilege, the attorney work product doctrine, or calls for a legal conclusion as to the relationship between Oracle and other entities, including agents. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Accordingly, and in light of OFCCP’s Instruction No. 1, which provides “Unless otherwise stated, these requests relate to Oracle’s POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California,” Oracle’s responses, objections, and productions are limited to documents “relate[d] to Oracle’s POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California.”

**DEFINITION NO. 2.** “RELEVANT TIME PERIOD” means January 1, 2013 to the present unless otherwise stated.

#### **OBJECTION TO DEFINITION NO. 2:**

Oracle objects to this definition as including the term “present,” which renders the phrase vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. As to Requests related to OFCCP’s recruiting and hiring claim, Oracle’s responses, objections, and

productions are limited to the relevant time period of January 1, 2013 through June 30, 2014. As to Requests related to OFCCP's compensation claims, Oracle's responses, objections, and production are limited to the relevant time period of January 1, 2014 through December 31, 2014.

**DEFINITION NO. 3.** "AFFINITY GROUP" means any group of people linked by a common interest or purpose and includes, but is not limited to, gender or race.

**OBJECTION TO DEFINITION NO. 3:**

Oracle objects to this definition as including the phrases "any group," "linked," and "common interest or purpose," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the OFCCP's allegations pertaining to Oracle's Redwood Shores, CA, location.

**DEFINITION NO. 4.** "AMENDED COMPLAINT" means the pleading filed by OFCCP in this action on January 25, 2017.

**DEFINITION NO. 5.** "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

**DEFINITION NO. 6.** "ANSWER" means the Answer to the AMENDED COMPLAINT filed by YOU in this action on February 8, 2017.

**DEFINITION NO. 7.** "COLLEGE RECRUIT" means any PERSON who expresses interest or applies to YOU through YOUR college recruiting program (including undergraduate students, graduate students, and recent graduates) for technical positions (as opposed to sales positions), including positions in the Professional Technical I, Individual Contributor job group or Product Development, Support, or Information Technology lines of business.

**OBJECTION TO DEFINITION NO. 7:**

Oracle objects to this definition as including the term "PERSON" and the phrases "expresses interest," "college recruiting program," and "technical positions," which render the

definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections, and production are limited to responsive documents related to the Professional Technical 1, Individual Contributor ("PT1") job group at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 8.** "COMMUNICATIONS" means all transactions or transfers of information of any kind, whether orally, in writing, or in any other manner, at any time or place, under any circumstances whatsoever.

**OBJECTION TO DEFINITION NO. 8:**

Oracle objects to this definition as including the phrase "all transactions or transfers" and the term "orally," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections, and production are limited to existing written or electronically stored information in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA, location.

**DEFINITION NO. 9.** "COMPENSATION" means any payments made to, or on behalf of, an employee as remuneration for employment, including but not limited to salary, wages, overtime pay, shift differentials, commissions, bonuses, vacation and holiday pay, retirement and other benefits, stock options and awards, and profit sharing.

**OBJECTION TO DEFINITION NO. 9:**

Oracle objects to this definition as including the phrase "remuneration for employment," which renders the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the

needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections, and production are limited to documents in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA, location.

**DEFINITION NO. 10.** "DATABASE" means any file or collection of information in fielded format that exists in computer-readable form.

**OBJECTION TO DEFINITION NO. 10:**

Oracle objects to this definition as including the phrases "file or collection of information," "fielded format," and "exists in computer-readable form" which render the definition unintelligible, vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing information that is neither relevant to any party's claim or defense nor proportional to the needs of the case. Furthermore, the definition is inconsistent with any commonly understood meaning of the term "database." Oracle further objects to this definition to the extent it calls for the production of information that is not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location during any relevant time frame. Oracle's responses, objections, and production are limited to information related the relevant time periods outlined in the Preliminary Statement above.

**DEFINITION NO. 11.** "DOCUMENT" means all writings of any kind, including any written, printed, typed, electronically stored, or other graphic matter of any kind or nature and all mechanical or electronic sound recordings or transcripts thereof, in YOUR possession and/or control or known by YOU to exist, and also means all copies of documents by whatever means made, including, but not limited to: papers, letters, correspondence, emails, text messages, presentations, manuals, computerized files, computerized spreadsheets, telegrams, interoffice communications, memoranda, notes, notations, notebooks, reports, records, accounting books or records, schedules, tables, charts, transcripts, publications, scrapbooks, diaries, and any drafts, revisions, or amendments of the above, and all other materials enumerated in the definition

provided in Rule 34 of the Federal Rules of Civil Procedure.

**OBJECTION TO DEFINITION NO. 11:**

Oracle objects to this definition as including the phrase “or known by YOU to exist,” which, to the extent such documents are not in Oracle’s possession, custody, or control, encompasses documents beyond those that Oracle has any obligation to produce.

**DEFINITION NO. 12.** “EXPERIENCED RECRUIT” means a PERSON who expresses interest or applies to YOU through the requisition process for technical (as opposed to sales) positions, including positions in the Professional Technical I, Individual Contributor job group or Product Development, Support, or Information Technology lines of business, and who is not already employed by YOU.

**OBJECTION TO DEFINITION NO. 12:**

Oracle objects to this definition as including the term “PERSON” and the phrases “expresses interest,” “requisition process,” “technical,” and “lines of business,” which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Oracle’s responses, objections, and production are limited to responsive documents related to the PT1 job group at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 13.** “GOVERNMENT CONTRACT” means a contract as defined in 41 C.F.R. § 60-1.3.

**DEFINITION NO. 14.** “HIRING” or “HIRE” mean receiving expressions of interest, soliciting, recruiting, communicating with, screening, interviewing, evaluating, determining starting salary and other COMPENSATION for, and/or extending offers to, PERSONS who express interest in a position with YOU or requisition posted by YOU.

**OBJECTION TO DEFINITION NO. 14:**

Oracle objects to this definition as unintelligible in its entirety. Oracle further objects to

this definition as including the term "PERSON" and the phrases "expressions of interest," "communicating with," and "express interest," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Furthermore, the definition is objectionable insofar as it refers to multiple processes, is compound, and is wholly inconsistent with the commonly understood definition of the terms "hiring" or "hire." Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle interprets this definition using the commonly understood use of the word "hiring" or "hire" and its responses, objections, and production are limited to responsive documents related to the PT1 job group at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 15.** "LABOR CONDITION APPLICATIONS" means a Labor Condition Application for H-1B Nonimmigrants provided by the United States Department of Labor, Employment and Training Administration.

**OBJECTION TO DEFINITION NO. 15:**

Oracle objects to this definition as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it encompasses documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle further objects to this request as calling for a legal conclusion and on the ground that it requires Oracle to conduct its own investigation into the definition and reference external material(s) to define the term.

**DEFINITION NO. 16.** "OFCCP" means the Office of Federal Contract Compliance Programs, United States Department of Labor.

**DEFINITION NO. 17.** "ORGANIZATIONAL CHART" means a graphic or written representation of the structure of YOUR business or any portion of YOUR business, which shows the relationships of the positions or jobs (including but not limited to reporting



relationships) within each line of business, job function, or any other division or group as YOU have defined them in the normal course of YOUR business operations.

**OBJECTION TO DEFINITION NO. 17:**

Oracle objects to this definition as including the terms “structure,” “relationship,” and “each,” which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Oracle’s responses, objections, and production are limited to responsive documents related to the Product Development, Support, and Information Technology job functions at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 18.** “PERSON” means without limitation individuals, firms, associations, partnerships, corporations, governmental agencies or offices and employees, and any other entity.

**OBJECTION TO DEFINITION NO. 18:**

Oracle objects to this definition as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party’s claim or defense nor proportional to the needs of the case, to the extent this definition includes firms, associations, partnerships, corporations, governmental agencies or offices and employees, and any other entity. Oracle further objects to this definition to the extent it includes information protected by attorney-client privilege or the attorney work product doctrine. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle’s Redwood Shores, CA, location. Oracle’s responses, objections, and production are limited to information in the custody, control, and possession of Oracle America, Inc. and related to its Redwood Shores, CA, location.

**DEFINITION NO. 19.** “PERSONNEL” means information relating to YOUR current, former, or prospective employees.

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**OBJECTION TO DEFINITION NO. 19:**

Oracle objects to this definition as vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case, to the extent this definition includes employees not employed by Oracle during the relevant time period. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle's responses, objections, and production are limited to responsive documents related to the Product Development, Support, and Information Technology job functions at its Redwood Shores, CA, location between January 1, 2013 and June 30, 2014.

**DEFINITION NO. 20.** "PERSONNEL FILE" means any data, file (including electronic files), collection of DOCUMENTS and COMMUNICATIONS, or other form in which information is stored or maintained by YOU or any of YOUR officers, executives, all levels of management, human resources department(s) or division(s), and/or any other employee or PERSON acting or purporting to act on YOUR behalf or at YOUR direction, concerning the employment of a particular employee, whether current, former, or prospective.

**OBJECTION TO DEFINITION NO. 20:**

Oracle objects to this definition as including the term "PERSON" and the phrases "other form," "information is stored or maintained," "all levels of management," "purporting to act," "concerning the employment," and "current, former, or prospective [employee]," which render the definition vague, ambiguous, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Furthermore, the definition calls for all information "concerning the employment of a particular employee" irrespective of whether it is part of a personnel file and is therefore objectionable as being wholly inconsistent with any ordinarily understood meaning of the term. The definition is unintelligible, especially to the extent it refers to "a particular employee" even if the person is not employed and so necessarily has no "personnel file." Oracle

further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location. Oracle further objects to this definition on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action. Oracle further objects to this definition to the extent it seeks confidential, trade secret and/or proprietary business information.

**DEFINITION NO. 21.** "POLICIES," "PRACTICES," or "PROCEDURES" means each rule, action, or directive, whether formal or informal, and each common understanding or course of conduct that was recognized as such by YOUR present or former officers, agents, employees, or other PERSONS acting or purporting to act on YOUR behalf or at YOUR direction, that was in effect at any time during the RELEVANT TIME PERIOD. These terms include any changes that occurred during the RELEVANT TIME PERIOD.

**OBJECTION TO DEFINITION NO. 21:**

Oracle objects to this definition as including the phrases "common understanding," "purporting to act," and "course of conduct," which render the definition vague and ambiguous. Oracle further objects to this definition as overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location within the Product Development, Support and Information Technology job functions. Accordingly, and in light of OFCCP's Instruction No. 1, which provides "Unless otherwise stated, these requests relate to Oracle's POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California" Oracle's responses, objections, and production are limited to documents "relate[d] to Oracle's POLICIES, PRACTICES, or PROCEDURES that apply at its headquarters located at Redwood Shores, California" and which pertain to the Product Development, Support and Information Technology job functions.

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**DEFINITION NO. 22.** "PROMOTION" means a change in an employee's job title, salary code, grade, or other ranking which results in an increase in COMPENSATION, responsibility, and/or other benefit.

**OBJECTION TO DEFINITION NO. 22:**

Oracle objects to this definition as including the terms "change," "salary code," "grade," "other ranking," "increase," "responsibility," and "other benefit," which render the definition vague, ambiguous, compound, overbroad, unduly burdensome and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location.

**DEFINITION NO. 23.** "RELATING TO" means constituting, memorializing, evidencing, containing, showing, supporting, contradicting, summarizing, pertaining to, or referring to, whether directly or indirectly, the subject of the particular request.

**DEFINITION NO. 24.** "TRANSFER EMPLOYEE" means an individual previously employed by YOU (i.e., a rehire) or at the time of hire was employed by YOU (at YOUR headquarters or at any of YOUR other locations) or by a corporate affiliate of YOU (such as Oracle India Pvt. Ltd.).

**OBJECTION TO DEFINITION NO. 24:**

Oracle objects to this definition as including the phrases "previously employed," "rehire," "hire," "any of YOUR other locations," and "corporate affiliate," which render the definition vague, ambiguous, overbroad, unduly burdensome, compound, and oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Furthermore, the definition is unintelligible to the extent it purports to include former employees within the definition of "transfer employees." It is also inconsistent with the definition of the word "hire" provided herein and Oracle's understanding of the term "hire". Oracle objects to the extent the definition calls for a legal conclusion. Oracle further objects to

this definition to the extent it seeks documents that are not relevant to the discriminatory conduct allegedly engaged in at Oracle's Redwood Shores, CA, location.

**RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST FOR PRODUCTION NO. 30:**

DOCUMENTS, including but not limited to ORGANIZATIONAL CHARTS or lists, sufficient to identify any and all PERSON(S), by name and job title, with authority to affect an EXPERIENCED RECRUIT's disposition or HIRING, including PERSONS participating in job fairs, evaluating or screening expressions of interest, resumes and other application DOCUMENTS, interviewing applicants, making recommendations whether to hire applicants, and approving hires during the RELEVANT TIME PERIOD.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

Oracle incorporates by reference its Objections to Specific Definitions set forth above. Oracle further objects to this request on the grounds that it is vague and ambiguous, including but not limited to the phrases "authority to affect," "participating in job fairs," "evaluating," "screening," "expressions of interest," "making recommendations," and "approving hires." Oracle further objects to this request as overbroad in scope, uncertain as to time, compound, unduly burdensome, oppressive, and encompassing documents not relevant to any party's claim or defense nor proportional to the needs of the case. Oracle further objects to this request on the grounds that it seeks confidential information and invades the privacy rights of individuals who are not a party to this action.

Subject to and without waiving these objections, Oracle responds:

Following entry of a protective order, Oracle will, after conducting a reasonably diligent search and utilizing reasonable search parameters, produce responsive, nonprivileged documents in its possession, custody, or control relating to the PT1 job group at its Redwood Shores, CA, location for the period of January 1, 2013, through June 30, 2014, to the extent any such documents exist.

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